APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,116	02/26/2002	Roy Neff	4159-4005US1	2253

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EXAMINER
AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _23 April 2007_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-26 and 136-141_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _1-26 and 136-141_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 4/23/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1-26, 136 and 138 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nieboer et al (USPN 6418419) in view of Ojha et al (USPN 6598026).

Re claims 1, 7, 13 and 14: Nieboer discloses a method operable on a computer for responding to

a barter order, the method comprising the steps of: receiving from a market maker a rule

including at least one condition for automatically generating a contra order (col. 2, lines 12-18;

col. 3, lines 60-67); receiving from a trader a barter order request to identify a contra barter order

that includes a first security to be sold in a barter and a second security to be purchased in the

barter; matching on the computer the barter order request to the at least one condition comprising

the rule (col. 2, lines 12-18); and automatically responding to the barter order request in

accordance with the at least one condition of the rule, if the at least one condition is satisfied,

including generating a contra barter order that includes the contra order (col. 2, lines 12-18; col.

19, lines 1-20; see abstract).

Nieboer does not explicitly teach providing to a market maker a means operable to generate a

plurality of rules for automatically responding to barter orders; providing the trader the contra

order for acceptance by the trader and repeating for each barter order request received from the

trader, the steps of matching, automatically responding and providing, whereby to provide

liquidity in a financial trading system for barter orders.

Nieboer however disclosed that orders are sent and received from the Nasdaq market makers.

Nieboer further discloses means for matching orders including if the condition are met, that two

or more securities are tradable.

Ojha discloses the concept of providing to a market participant a means operable to generate a

plurality of rules for automatically responding to barter orders; receiving from a market

participant a rule including at least one condition for automatically generating a contra order;

providing the trader the contra order for acceptance by the trader and repeating for each barter

order request received from the trader, the steps of matching, automatically responding and

providing, whereby to provide liquidity in a financial trading system for barter orders (see col. 7,

lines 46-58, col. 15, lines 30 through col. 17, line 15; Figs. 13A-13K). It would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Nieboer to

include these features as taught by Ojha in order to automatically generate appropriate contra

order according the rules defined by the market participant. .

Re claims 2, 8 and 16: Nieboer discloses wherein at least one of the first security or the second security includes a quantity thereof (col. 8, lines 29-54; col. 17, lines 25-67); and the barter order further including an effective time range (col. 2, lines 1-5; col. 15, lines 50-65).

Re claims 3, 9, 18 and 23: Nieboer discloses wherein the at least one condition includes at least one variable selected from the group of variables including: the identity of one or more of the first and second securities, the delta between the buy and sell prices of the first and second securities, the relationship of the SIC codes of the first or second securities or any other securities, the market cap of the first or second securities, the average daily volume traded of the first or second securities and the debit value of the bid/ask spread of the first and second securities (col. 1, lines 42-65; col. 9, line 1 – col. 10, line 12).

Re claims 4 and 10: Nieboer discloses wherein each of the conditions further includes a mathematical operator and a value (col. 15, lines 1-10).

Re claims 5 and 11: Nieboer discloses wherein the rule further includes at least one pricing tier comprising an offer price range within which a rule is operative and an offer size value up to which a rule is operative (col. 8, lines 27-54); and if the rule is operative and if the at least one condition of the rule is satisfied, then further comprising the steps of: if the barter offer is a limit order, performing one of the steps of trading the first and second securities (see fig. 8; col. 10,

line 11-65), and posting the barter order request for consideration for execution; if the barter

order request is a market order, trading the first and second securities; and if a contra barter offer

is accepted, trading the first and second securities (see fig. 8; col. 10, lines 11-65).

Re claims 6 and 12: Nieboer discloses wherein the step of automatically responding includes

prompting the operator to provide a manual response (col. 13, lines 1-40).

Re claims 15, 20, 25 and 26: see claims 1, 7, 13 and 14 analyses above.

Re claims 17 and 22: Nieboer discloses wherein the input from the user includes selecting at

least one variable from the plurality of variables, at least one operator from the plurality of

operators and at least one constraint to form the at least one condition (see col. 17, table 1; col.

15, lines 1-45).

Re claims 19 and 24: Nieboer discloses wherein the rule further includes at least one pricing tier

comprising an offer price range within which a rule is operative and an offer size value up to

which a rule is operative (col. 11, lines 40-60).

Re claim 21: Nieboer discloses wherein: at least one of the first security and the second security

includes a quantity thereof (col. 8, lines 29-54; col. 17, lines 25-67); and

the barter order further including an time date range (col. 2, lines 1-5; col. 15, lines 50-65).

Re claims 136 and 138: Nieboer further discloses the method wherein the contra barter order

includes the first security and the second security (col. 8, lines 29-54; col. 17, lines 25-67; col.

19, lines 1-20)

Claims 137 and 139-141 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nieboer in view of Ojha as applied to claims 1 or 13, and 7 or 14 above, and further in view of

Nordlicht et al (USPAP 20050137964).

Re claims 137, 139, 140 and 141: Nieboer failed to explicitly disclose the method wherein the

contra barter order is an implied order including at least a first barter order and one of the group

comprising a second barter order and a single-side order.

Nordlicht et al discloses the method wherein the contra barter order is an implied order including

at least a first barter order and one of the group comprising a second barter order and a single-

side order (0158). Accordingly it would have been obvious to one of ordinary skill in the art at

time of applicant's invention to modify the method of Nieboer and incorporate the method

wherein the contra barter order is an implied order including at least a first barter order and one

of the group comprising a second barter order and a single-side order as taught by Nordlicht et al

in order to respond to users exact orders by generating implied order.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

HANI M. KAZIMI
PRIMARY EXAMINER